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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/086,095	02/27/2002	Takeshi Kindaichi	OOCL-85 (US-P1544)	2844
26479	7590	09/28/2005	EXAMINER	
STRAUB & POKOTYLO 620 TINTON AVENUE BLDG. B, 2ND FLOOR TINTON FALLS, NJ 07724			YE, LIN	
			ART UNIT	PAPER NUMBER
			2615	

DATE MAILED: 09/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/086,095

Applicant(s)

KINDAICHI, TAKESHI

Examiner

Lin Ye

Art Unit

2615

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 July 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 8-13 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 8-13 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 July 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed 7/20/05 have been fully considered but they are not persuasive as to claims 8, 10 and 11.

For claim 8, the applicant argues that the conventional film/electronic photography camera does not teach "photometry means for measuring the brightness of the subject with a photometry element in response to a power on operation of the camera" as recited in claim 8 (See applicant's REMARKS page 11, lines 1-25).

The examiner disagrees. The limitation "... **in response** to a power on operation of the camera" recited in claim 8 is broad and **does not require** a means when the power on operation sets, photometry element (first photometry means) performing a measurement, **without the operator having to perform additional operations**, such the first release switch (1R) is turned on by operator. It is clearly that if the camera was powered off, the first photometry means would never perform a measurement. The applicant's admitted Prior Art discloses in Figures 3A-3D, only after the camera is powered on, the first photometry means performs a measurement. For these reasons, the applicant's admitted Prior Art discloses photometry means (See page 24, lines 21-24) for measuring the brightness of the subject with a photometry element (17) in response to a power on operation of the camera.

For claims 10-11, the applicant argues that the Ashida reference (U.S. Patent 6,833,864) does not disclose that "actuating said the photometry element in response to an operation of

Art Unit: 2615

said start switch (power switch operation)” as recited in claim 10 (See applicant’s REMARKS page 13, lines 1-16).

The examiner disagrees. The limitation “actuating said the photometry element **in response** to an operation of said start switch (power switch operation)” recited in claim 10 is broad and **does not require** a means when the power on operation sets, photometry element (first photometry means) performing a measurement, **without the operator having to perform additional operations**, such as the shutter release button being half pressed by operator. It is clearly that if the camera was powered off, the first photometry means would never perform a measurement. The Ashida reference discloses in Figure 2, only after the camera is powered on, the first photometry means performs a measurement in S12. For these reasons, the Ashida reference discloses actuating said the photometry element **in response** to an operation of said start switch (power switch).

2. Applicant's arguments with respect to claim 9 filed on 7/20/05 have been considered but are moot in view of the new ground(s) of rejection.

Drawings

3. The drawings were received on 7/20/05. These drawings are approved.

Claim Rejections - 35 USC § 102

Art Unit: 2615

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

5. Claims 8 and 12 are rejected under 35 U.S.C. 102(a) as being anticipated by applicant's admitted Prior Art.

Referring to claim 8, the applicant's admitted Prior Art discloses in Figures 3A and 3D (e.g., the examiner understands the applicant discloses in Figure 3E of the embodiments of the present invention, a camera for film photography and electronic photography comprising: photometry means is executed when the power of camera operation is started and without the operator having to perform additional operations such as before 1R and 2R release switches are turned on. However, the claim 8 does not disclose and require those limitations that discussed above. Therefore, the claim 8 is anticipated by the applicant's admitted Prior Art), the Prior Art discloses a camera (conventional hybrid camera, see page 26, 21-24 and page 27, lines 1-9) comprising: digital photography means (solid-state image-pickup) for picking up digital images of a subject; photometry means (See page 24, lines 21-24) for measuring the brightness of the subject with a photometry element (17) in response to a power on operation of the camera (e.g., The applicant's admitted Prior Art discloses in Figures 3A-3D, only after the camera is powered on, the first photometry means performs a measurement. For these reasons, the applicant's admitted Prior Art discloses photometry means for measuring the brightness of the subject with a photometry element in response to a

Art Unit: 2615

power on operation of the camera); and setting means for setting the image-pickup conditions of the next cycle based on the past image-picked-up results of said digital photography means (setting repeated several times based on the past image-picked-up results as shown in Figure 3C), wherein the initial image-pickup conditions of said digital photography means are set based on the output of said photometry means (when the camera power source turned on as the camera operation is started, in Figure 3D, the initial image-pickup conditions are set based on the output of the photometry element 17, see page 26, 21-24 and page 27, lines 1-9).

Referring to claim 12, the applicant's admitted Prior Art discloses wherein said camera is a hybrid electronic photography and film camera as shown in Figure 3D (See page 26, 21-24 and page 27, lines 1-9).

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

7. Claim 10 is rejected under 35 U.S.C. 102(e) as being anticipated by Ashida U.S. Patent 6,833,864.

Referring to claim 10, the Ashida reference discloses in Figures 1-2, a camera (See Col. 2, lines 64-67) comprising a start switch for power on operation (power switch, see Col. 4,

Art Unit: 2615

lines 59-60) of said camera; an image-pickup element (solid state image sensor 16, see Col. 3, lines 2-3); an image-pickup element drive circuit (exposure control part 32, see Col. 3, lines 23-25) for driving said image-pickup element; a signal processing circuit (digital processing part 20, see Col. 3, lines 20-48) for processing the image signal that is formed by said image-pickup element; a photometry element (external photometry device, see col. 3, lines 67-68) for measuring the brightness of a subject; a photoelectric current processing circuit (photometry circuit of the digital processing part 20, see Col. 4, lines 60-63) for processing the photoelectric current output from said photometry element; and a CPU (34, see Col. 4, lines 59-67 and Col. 5, lines 1-5) for actuating said photometry element in response to an operation of said start switch (e.g., the Ashida reference discloses in Figure 2, only after the camera is powered on, the first photometry means performs a measurement in S12. For these reasons, the Ashida reference discloses actuating said the photometry element in response to an operation of said start switch as power switch) and instructing the initial operation conditions of said image-pickup element to said image-pickup element drive circuit based on the data on the brightness of the subject processed by said signal processing circuit as shown in Figure 2.

8. Claims 8-9 rejected under 35 U.S.C. 102(e) as being anticipated by Ito U.S. Patent 6,882,369.

Referring to claim 8, the Ito reference discloses in Figures 1 and 3A, a camera comprising: digital photography means (image section 12 and A/D converter 26) for picking up digital images of a subject; photometry means for measuring the brightness of the subject with a photometry element (photometer circuit 11, see Col. 4, lines 23-26) in response to a

power on operation of the camera (e.g., when power switch 30 is set on, the camera system and the CPU starts operating, in Figure 3A, step S101, the CPU 10 receives the luminance information of the subject from the photometer circuit 11, see Col. 5, lines 40-50); and setting means for setting the image-pickup conditions of the next cycle based on the past image-picked-up results of said digital photography means (e.g., after first release switch turned on as next cycle in step S118, the CPU 10 receives image data for computing the contrast in step S119, changing imaging lens position as setting the image-pickup conditions in step S122 for bringing subject into focus, see Col. 6, lines 19-33), wherein the initial image-pickup conditions of said digital photography means are set based on the output of said photometry means (, the CPU 10 set value of the aperture and the integration time of the imaging device 12 based on the output of photometer circuit 11, See Col. 5, lines 45-50).

Referring to claim 9, the Ito reference discloses wherein the initial photography conditions of said digital photography means are set based on the output of said photometry means obtained when the operation of said camera is started and before a first release of a switch is turned on (e.g., as shown in Figure 3A, the initial photography conditions of said digital photography means is in step S101, and the a first release of a switch is turned on in step S118).

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person

Art Unit: 2615

having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over applicant's admitted Prior Art in view of Ejima et al. U.S. Patent 6,342,900.

Referring to claim 9, the applicant's admitted Prior Art discloses all subject matter as discussed with respect to same comment as with claim 8, and the applicant's admitted Prior Art discloses wherein the initial photography conditions of said digital photography means are set based on the output of said photometry means obtained when the operation of said camera is started (camera power source turned on) as shown in figure 3A and 3D. However, the applicant's admitted Prior Art does not explicitly show the initial photography conditions of said digital photography means are set before a first release of a switch is turned on.

The Ejima reference teaches a camera comprising a power switch (11, see Col. 4, lines 32-33); when the electronic camera is started, the digital signal processor (DSP 33) automatically activates the photometry circuit (51) for calculating the initial value of the exposure time (as the initial photography conditions) in response to the photoreceptive level detected by the photometry device (16) without the operator having to perform additional operations, such as operator half-depresses the release switch (10) as a first release of a switch is turned on (See Col. 6, lines 22-30 and Col. 8, lines 10-11). The Ejima reference is evidenced that one of ordinary skill in the art at the time of the invention to see more advantages the initial photography conditions of said digital photography means are set before a first release of a switch is turned on so that the adjustment of the exposure time of the CCD 20 can be shortened. For that reason, it would have been obvious one having

ordinary skill in the art at the time of the invention was made to modify the system of the applicant's admitted Prior Art by providing the initial photography conditions of said digital photography means are set before a first release of a switch is turned on as taught by Ejima.

11. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ashida U.S. Patent 6,833,864 in view of Kobayashi et al. U.S. Patent 6,750,911.

Referring to claim 11, the Ashida reference discloses all subject matter as discussed with respect to same comment as with claim 1, except that the Ashida reference does not explicitly show in image-pickup operation of the second cycle and subsequent cycles of said image-pickup element, sets the operation conditions of the next cycle based on the image signal obtained by the previous image-pickup operation.

The Kobayashi reference teaches in Figure 15, a camera comprising an image-pickup element (CCD imager 20) and a image-pickup element drive circuit (microcomputer 40, see Col. 4, lines 46-47); and in image-pickup operation of the second cycle and subsequent cycles of said image-pickup element, sets the operation conditions (i.e., shutter speed) of the next cycle based on the image signal obtained by the previous image-pickup operation (the pre-exposure, see Col. 8, lines 14-26). The Kobayashi reference is evidenced that one of ordinary skill in the art at the time of the invention to see more advantages a camera calculates a next-time camera operation conditions based on a camera signal obtained by the pre-exposure and repeats the operation several times so that to accurately calculate a shutter speed at which a desired exposure is to be obtained (optimal shutter speed, see Col. 8, lines 35-40). For that reason, it would have been obvious one having ordinary skill in the art at

the time of the invention was made to modify the camera system of Ashida by providing an image-pickup element drive circuit that sets the operation conditions of the next cycle based on the image signal obtained by the previous image-pickup operation as taught by Kobayashi.

12. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ashida U.S. Patent 6,833,864 in view of applicant's admitted Prior Art.

Referring to claim 13, the Ashida reference discloses all subject matter as discussed with respected to same comment as with claim 10, except that the Ashida reference does not explicitly show the camera is a hybrid electronic photography and film camera.

The applicant's admitted Prior Art teaches the camera is a hybrid electronic photography and film camera as shown in Figure 3D (See page 26, 21-24 and page 27, lines 1-9). The applicant's admitted Prior Art is evidenced that one of ordinary skill in the art at the time of the invention to see more advantages a camera is a **hybrid electronic photography and film camera** so that the film photography and electronic photography can be conducted at the same time (See page 5, lines 3-12). For that reason, it would have been obvious one having ordinary skill in the art at the time of the invention was made to modify the camera system of Ashida by providing a **hybrid electronic photography and film camera** as taught by applicant's admitted Prior Art.

Conclusion

Art Unit: 2615

13. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a).

Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lin Ye whose telephone number is (571) 272-7372. The examiner can normally be reached on Mon-Fri 8:00AM-5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David L. Ometz can be reached on (571) 272-7593. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2615

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'Lye', with a long horizontal stroke extending to the right.

Lin Ye
Examiner
Art Unit 2615

September 26, 2005